



Office of the Superintendent

## United States Department of Interior

BUREAU OF INDIAN AFFAIRS

Osage Agency

P. O. Box 1539

Pawhuska, OK 74056

MAR 01 2021

### Notice to the Lessee:

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act, Sec. 701 of Pub. L. 114-74, which requires Federal agencies to adjust civil monetary penalties annually to account for inflation. Civil monetary penalties are any assessments with a dollar amount that are levied for a violation of a Federal civil statute or regulation and are enforceable through a civil action in Federal court or an administrative proceeding.

In accordance with the Act, on January 28, 2021, the Bureau of Indian Affairs published a Final Rule adjusting the civil monetary penalties contained in the Bureau's regulations in Title 25 of the Code of Federal Regulations, including the regulations set forth in 25 C.F.R. Part 226—Leasing of Osage Reservation Lands for Oil and Gas Mining. See 86 Fed. Reg. 7344. The Final Rule became effective on the date of its publication in the Federal Register. Accordingly, as of January 28, 2021, the Osage Agency was required to begin assessing civil monetary penalties under 25 C.F.R. Part 226 at the following rates:

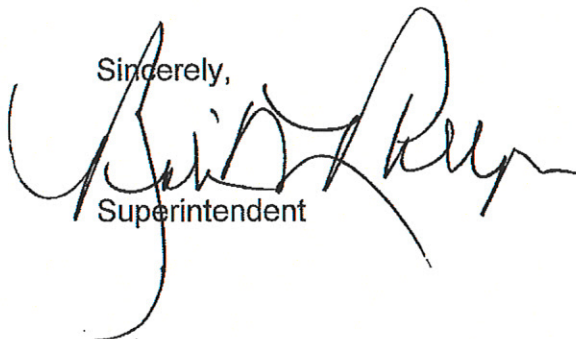
CFR Citation	Adjusted Penalty for 2021
25 CFR § 226.42	\$976
25 CFR § 226.43(a)	\$97
25 CFR § 226.43(b)	\$97
25 CFR § 226.43(c)	\$97
25 CFR § 226.43(d)	\$97
25 CFR § 226.43(e)	\$195
25 CFR § 226.43(f)	\$390
25 CFR § 226.43(g)	\$976
25 CFR § 226.43(h)	\$97

Enclosed please find a copy of the Osage Agency's policy regarding the assessment of penalties and fines, which has been revised to reflect the 2021 adjustment to civil monetary penalties. The policy is also available on the Osage Agency's website at the following link:

<https://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/index.htm>

If you have any questions regarding this Notice or the enclosed policy, please contact the Osage Agency at (918) 287-5700.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. [unclear]", written over the word "Superintendent".

Superintendent

Enclosures (1)



Office of the Superintendent

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### MEMORANDUM

From: Superintendent

To: Supervisory Realty Specialist, Branch of Lease Management, Osage Agency  
Supervisory Accounting Specialist, Branch of Accounting, Osage Agency  
Realty Specialist, Branch of Enforcement and Lease Compliance, Osage Agency

Re: 2021 Civil Penalty Adjustment – Assessment of Civil Monetary Penalties  
Pursuant to 25 C.F.R. §§ 226.42 and 226.43

The Osage Agency assesses civil monetary penalties for the violation of lease terms and/or the regulations set forth in 25 C.F.R. Part 226 pursuant to 25 C.F.R. §§ 226.42 and 226.43. In compliance with the Federal Civil Penalties Adjustment Act Improvement Act of 2015, Sec. 701 of Pub. L. 114-74, the Bureau of Indian Affairs published an adjustment of the civil monetary penalties contained in 25 C.F.R. Part 226 for 2021. See 86 Fed. Reg. 7344 (Jan. 28, 2021). The civil monetary penalties discussed herein have been adjusted accordingly.

The Osage Agency has identified four classes of violations for the purpose of assessing civil monetary penalties. The Osage Agency assesses such penalties pursuant to 25 C.F.R. §§ 226.42 and 226.43 based on a determination as to what class of violation has been committed.

#### **Violation Categories and Associated Penalties:**

**Class A (\$976.00 per day):** Violations that may be considered hazardous. These types of violations pose a direct threat to the human environment, including air/water quality, biological resources (wildlife, fish, birds, cattle, etc...) and/or adversely affect the property (soil, vegetation, ponds) of applicable surface owners. Generally, these violations are affiliated with incidents where contamination of the environment has occurred. Class A

penalties are assessed pursuant to 25 C.F.R. §§ 226.42 and 226.43(g). Please refer to table titled "Examples of Class A Violations."

**Class B (\$195.00 per day):** Violations that are generally considered to be the result of improper conduct and/or failure to operate the lease in a workmanlike manner. Class B penalties are assessed pursuant to 25 C.F.R. §§ 226.36, 226.42 and 226.43(e). Please refer to table titled "Examples of Class B Violations."

**Class C (\$97.00 per day):** Violations that are considered to be minor regulatory infractions. Class C violations are assessed pursuant to 25 C.F.R. §§ 226.42, 226.43(b), 226.43(c) and 226.43(h). Please refer to table entitled "Examples of Class C Violations."

**Class D (\$390.00 per violation):** Failure to notify Superintendent before drilling, re-drilling, deepening, plugging or abandoning any well as required by §§ 226.16(c) and 226.25. Class D violations are assessed pursuant to 25 C.F.R. § 226.43(f).

### Examples of Class A Violations

<b>Violation</b>	<b>Corrective Action</b>
Failure to properly care for and dispose of deleterious fluids as provided in § 226.22.	Remove all standing oil and/or saltwater, and remediate spill area, including all contaminated soil, to the extent that the affected soils can support growth of new vegetation.
Failure to construct and maintain pits as required by § 226.22.	Empty pit of all fluids at the tank battery, and keep empty. Dispose of contaminated material at an approved location off lease.
Failure to construct and maintain pits as required by § 226.22.	Line pit with no less than 30 mil liner or fill in pit.
Failure to conduct operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any unavoidable nuisance to be maintained on the premises under his/her control as required by § 226.19.	Repair leaking equipment (i.e. salt water pump, clean out plate on gun barrel, dump valve on saltwater tank, etc...).
Failure to conduct operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any unavoidable nuisance to be maintained on the premises under his/her control as required by § 226.19.	Bring all electric up to National Electric Code. Specifically, update all wiring to avoid the likelihood of electrocution hazards to the human environment (i.e. humans, wildlife, cattle, etc...).
Failure to safely and properly temporarily abandon the well bore in accordance with § 226.19, which presents a threat to the human environment.	Properly secure the well bore by installing a bull plug or other capping mechanism approved by the Superintendent.



### Examples of Class B Violations

<b>Violation</b>	<b>Corrective Action</b>
Failure to conduct operations in a workman like manner, commit no waste and allow none to be committed upon the land, nor permit any unavoidable nuisance to be maintained on the premises under his/her control as required by § 226.19.	Clean-up conditions around tank battery and well location(s) by keeping oil cans and other trash picked up, i.e., junk, poly pipe and rods, and keep clean.
Same as above.	Remove all equipment and items not necessary to operate the lease. Refrain from relocating the excess equipment and items to another location within the lease.
Same as above.	Confine vehicles to the existing lease road.
Same as above.	Failure to maintain roads, or repair/replace gates or cattle guards to proper condition.
Same as above.	Level and dress location at disturbed site, i.e. well location, tank battery or spill area.
Same as above.	Complete restoration of the spill area by preventing soil erosion until vegetation can be restored to the site.
Same as above.	Install/repair fence around the tank battery/well.
Same as above.	Place proper seal or locking device on the oil tank.
Same as above.	Bury disposal line going to the new tank battery.

Same as above.	Cut and remove excess vegetation around tank battery and well(s).
Same as above.	Install drip pan on purchase sale line at tank battery.
Failure to install an approved gate valve or other controlling device which is in proper working condition for use until the well is completed and at all times maintain proper control of subsurface strata as required by § 226.36.	

**Examples of Class C Violations**

<b>Violation</b>	<b>Corrective Action</b>
Failure to mark wells and tank batteries as required by § 226.34.	Number all oil tanks.
Failure to mark wells and tank batteries as required by § 226.34.	Place/replace/update descriptive signs at the tank battery and well(s) as necessary.
Failure to obtain permission to start operations by 226.16(b).	Obtain permission from agency
Failure to file records by 226.32; 226.29; and 226.13	Provide timely lessee reports; plugging reports; completion reports
Failure to mark wells and tank batteries as required by § 226.34.	Place/replace/update descriptive signs at the tank battery and well(s) as necessary.

